

REMARKS

The last Office Action of November 13, 2008 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-24 are pending in the application. Claims 13, 14, 16-20 and 26-33 have been withdrawn from further consideration. Applicant herewith affirms the withdrawal of these claims from further consideration. Claims 4, 8, 15 and 21 have been amended. Claims 1-3, 5, 9-12 and 25 have been canceled. Claims 34-37 have been added. A total of 12 claims is now on file. No claim surcharge is due. No amendment to the specification has been made.

It is noted that the disclosure was objected to for lack of the heading BRIEF DESCRIPTION OF THE DRAWINGS;

It is further noted that claims 1-12, 15 and 21-24 are objected to for containing non-elected subject matter. Claim 15 was objected to for lack of reciting multiple dependency in the alternative and on that basis was withdrawn.

It is noted that claim 7 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

Claims 1 to 5 and 12 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 4, 647,675 to Mayer ("Mayer") or US. Patent No.: 5,389,489 to Yanagihara ("Yanagihara") or U.S. Patent No.: 6,399,392 to Haugland ("Haugland") or Japanense Patent 11-302550 ("JP '550") or Japanese Patent 2000-118145 ("JP '145").

Claims 1, 3, 4 and 12 stand rejected under U.S.C. §102(b) as being anticipated by Japanese Patent 62-94841 ("JP '841") or WO 02/055512 to Gao ("Gao").

Claim 21 to 24 stand rejected under U.S.C. §102(b) as being anticipated by Haugland or Gao".

Claims 1-8 and 12 stand rejected under U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,750,357 to Chiarello ("Chiarello").

Applicant notes with appreciation that claims 9 to 11 would be allowable if rewritten in independent form including all limitations of the base claim and any

intervening claims. However, applicants wish to defer rewriting these dependent claims in view of the arguments presented below regarding new claim 34.

OBJECTION TO THE SPECIFICATION

The Examiner required insertion of "BRIEF DESCRIPTION OF THE DRAWINGS". Applicant submits that the heading was inserted by Preliminary Amendment filed in September 2005. Therefore the objection should be moot.

OBJECTION TO THE CLAIMS

The Examiner has objected to claims 1-12, 15 and 21-24 as containing non-elected subject matter.

Applicant has canceled claims 1-3, 5, 9-12 and 25. With respect to claim 15, that claim has been amended to eliminate the multiple dependency. As such claim 15 should now be examined.

Claims 21 now depends from claim 34 and is directed to the process of preparing the dye according to claim 34. Claims 22-24 depend directly or indirectly on claim 21.

Applicant believes that the respective amendments eliminate all the objections raised by the Examiner.

REJECTION OF CLAIM 7 UNDER 35 U.S.C. §112, SECOND PARAGRAPH

Claim 6 has been amended to include the ring structures, so that there is now antecedent basis for the ring structure in claim 7.

REJECTION OF CLAIMS 1-5 AND 12 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY MAYER OR YANAGIHARA OR HAUGLAND OR JP '550 OR JP '145

Applicant has presented new claim which incorporates limitations of claims 1-3, 5, 9, 11 and 12. Claim 34 as now presented includes also carboxyl groups in one of R₅ or R₆. This is supported by the specification paragraph

[0029] and is seen in FIG. 2 as NK 83 By virtue of this amendment claim 34 distinguishes over the Mayer, Yanagihara, Haugland, JP '550 and JP '145 references.

Claims 5 and 12 were cancelled so that the rejection thereof is now moot.

Withdrawal of the rejection of claims 1-5 and 12 under 35 U.S.C. §102(b) is thus respectfully requested.

REJECTION OF CLAIMS 1, 3, 4 AND 12 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY JP '841 OR GAO

In view of the Examiner's grounds for rejection, applicant has canceled original claims 1, 3 and 12 and submits new claim 34, which has been rewritten to include the limitations of originally filed claims 1-3, 5, 9, 11 and 12. Accordingly, applicant asserts that claim 34 as now presented distinguishes over the cited references.

While Goa discloses carboxyl-substituted carboxamid groups, those are in compounds that are carrying the end groups =O, -OH and -OR, the presently submitted claim 34 distinguishes over the cited references by including end groups of -NRR.

As for the rejection of the retained dependent claims, these claims depend directly or indirectly from claim 34, share its presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

Withdrawal of the rejection of claims 1, 3, 4 and 12 under 35 U.S.C. §102(b) and allowance thereof are thus respectfully requested.

REJECTION OF CLAIMS 21-24 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY HAUGLAND OR GAO

Claims 21-24 are now directly or indirectly dependent on claim 34 and therefore contain all the limitations thereof, such these claims patentably distinguish over the applied prior art in the same manner as claim 34.

Withdrawal of the rejection of claims 21-24 under 35 U.S.C. §102(b) and allowance thereof are thus respectfully requested.

REJECTION OF CLAIMS 1, 8 AND 12 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY CHIARELLO OR GAO

Claims 1 and 12 are cancelled and claim 8 is now indirectly dependent from claim 34, so that the rejection thereof as anticipated by the Chiarello and Gao references is overcome in the same manner as discussed above.

CITED REFERENCES

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

CONCLUSION

Applicant believes that when reconsidering the claims in the light of the above comments, the Examiner will agree that the invention is in no way properly met or anticipated or by any of the references however they are considered.

None of the references discloses a dye as claimed in claim 34.

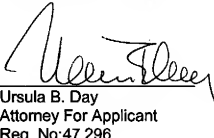
In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the

Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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